

THE MORAL ADVOCATE.

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"On Earth peace, good will towards men."

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The Yearly Meeting of Friends, which took place the first of this month, occasioned the present number to be two weeks later than the time at which it should have been issued.

In order to give place to Justin, and also make room for some interesting extracts, the editor's views on the subject of war, particularly with reference to the precepts and practice recorded in the new Testament, will be deferred to a future number.

H. Niles in his Register of the 27th of the 7th month last, after noticing the war going on between the Cherokees and Osages, makes the following remark. "It has truly been an unprofitable contest of trying who could do the other the most harm." How ridiculous must such an enterprise appear, when engaged in by intelligent beings, even though they may be uncivilized! And yet this is the true character of war, in all countries—"an unprofitable contest of trying who could do the other the most harm."

DUELING.

Perhaps in all civilized governments, Duelling is justly ranked among high crimes, and made punishable as murder of the first degree. It is agreed on all hands that the practice is wicked—is a violation of the laws of God. How then can it be considered an affair of honour. How can we dare to entrust any man with authority, who considers it honorable to trample on the laws of his coun-

try (both civil and military) and despise religious obligation? What, let me ask, can prevent such a man from the abuse of power? Nothing but that thing called honor. And what is honor? According to the acceptation of the Duelist, it is an accordance with the opinions of a few of his associates. However profligate or contemptible these may be, their opinion is set up as the Criterion of honor in opposition to the dictates of Religion, of reason of law, of the moral sense of the great bulk of mankind, and even of nature itself! Where then let me ask is the barrier against the abuse of power by a man who acts on such principles? Not in religion, Not in Law—Not in his own moral sense. If the most frivolous offence, such as all intermediate grades between the school boy and the Christian Philosopher, would regard with perfect indifference, can so powerfully excite the passions of these men of honor, does it not completely prove that their passions are too easily excited, to be compatible with public or private safety? And what is it that constitutes the *Bad man*, in public or private life, but an indulgence of the passions of the human heart, and a disregard to those barriers which Religion and civil society have thrown around the sanctuary of human happiness. It should therefore be the understanding, that no man who fights a duel, gives a challenge, or has any agency in a duel, should be admitted to hold an office of profit or honor in government, or receive the countenance of respectable company. From the former he should be excluded forever—from

the latter, untill he affords evidence of his change of principles, and reformation of conduct.

For the Moral Advocate.

Having shown in a former number, (page 22) that *War*, amongst professors of the christian name, originated in the apostacy, I now proceed to prove it never has existed in the Christian Church.

This proposition implies a task which the reader may yet suppose cannot be accomplished. I only promise conviction to those who are willing to be convinced. The predilection of the natural feelings in favour of war, the bias of education & public sentiment, are all against me; and I am fully sensible that they have a powerful influence on the minds of those who are invited to an investigation of this subject. It is very obvious, certainly; to every individual that reflects upon it, that those feelings retard the advancement of the happiness of the soul; let them therefore be hushed to peace. It is clearly the dictate of sound judgment, that when education has given a bias that has not for its object the greatest sum of happiness, it should be made to yield to that which promises greater. And public sentiment, since it can no more alleviate the anguish of the soul, than the pains of the body, is a very unsafe criterion; as a strong evidence against it, in the case of war, it is the pursuit of all nations, whether civilized or uncivilized, whether called christian or pagan. With sincerity of desire to understand the christian dispensation, and to be initiated into its spirit, the way to conviction is open; without it, it is closed. No possible benefit can be derived from talking of the "straight gate and narrow way" to the heavenly kingdom, whilst walking through the "wide gate and broad way that leadeth to destruction." Mankind are amusing themselves with theories of religion, and each seem to suppose

that to understand his favorite system, and to practice those externals which call for no sacrifice, will ensure salvation. But the gospel system, as clearly unfolded in the New Testament, as could be possible by the letter, goes deeply into the principle; even to the minutia of thought. See Paul's exposition of the christian warfare. "For the weapons of our warfare, are not carnal, but mighty through God, to the pulling down of strong holds: casting down imaginations, and every high thing that exalteth itself against the knowledge of God, and bringing into captivity every thought to the obedience of Christ." Such was the warfare of the christians; but however astonishing, what was not theirs, is now the warfare of those who claim to be treading in their steps; and what was theirs, is now rejected! Then, the heavenly kingdom was gained by a conquest of self: now, by the poet, the orator and the priest, the warrior is represented as fighting his way into it, sword in hand!!

While satisfied with names and theories, traditions and customs, both the knowledge and enjoyment of the christian life will still be wanting. It is gaining one point to convince the judgment of a man; but unless his will is made to bow submissively to such conviction, he not only misses the enjoyment of conscious obedience, but must inevitably suffer such future remorse as will be consequent upon conscious disobedience. This is clearly, "the worm that dieth not—the fire that is not quenched." While it is desirable to convince the reasoning faculty of the understanding; it is much more so, to induce an earnest search after that life which is "hid with Christ in God."

By unfolding to view the spirituality of the Gospel dispensation, its purity and holiness; it will be rendered apparent that the spirit of war is hostile to it; and as an unfailing consequence, that the spirit of war excludes the spirit of the gospel. Hence it

necessarily follows, that those who are in the spirit of war, are not in the gospel spirit; and therefore not members of the christian church. This will be admitted as equally true, of any antecedent period.

Mankind are lamentably deceived by names. A pompous name attached to almost any thing, gives it a popular dignity. And the impression on the mind is so insensibly deep, that made when young and susceptible, it may take half of a man's life to erase it. We find names dignified in the estimation of men, at the head of what are considered as the christian churches, which are calculated to inspire the common mind with reverential awe; even forbidding to question the infallibility of their possessors, in point, of doctrine. While shielded by these against the plea and the doctrine of christian non-resistance, and of peace; we shall not find an accessible avenue to the heart. But when the mind is feelingly convinced that "the fear of man bringeth a snare," and that the Lord Almighty is alone to be feared, revered and adored, as the supreme director and judge in all the concerns of the soul, an independence of man will be assumed; & if faithful, strength will be derived from Him, enabling to overcome the fear of man, and all the machinations of the enemies of the soul. In this condition a primary reference to his glory will arise; and a clearness of perception, that it is not by words and names that this is promoted, but by the revival and advancement of the original spirituality of the gospel dispensation. Said the apostle, "the kingdom of God, is not in word but in power." The all-pervading Eye of Omniscience that now sees, saw distinctly every characteristic of the seven churches of Asia. See how it was with the church in Sardis. "And unto the angel of the church in Sardis write: These things saith he that hath the seven spirits of God, and the seven stars, I knew thy works, that thou hast a name that thou livest, and art dead." Since it will not be by the name but by the principle; not by the pretension, but by the reality; that we shall be tried in the hour of judgment, let every fictitious impression be erased, that the soul may present an even surface, and a softer substance, (figuratively) for the inscription of Truth upon it.

To contemplate the character of the human mind, and the character of the divine mind, is ever profitable: while one is painful, the other is delightful. From this, we may derive more useful instruction than from all the abstruse disquisitions of men. As by comparison and contrast the difference in color is the most apparent to the outward eye, so to the perception of the mind, the human character appears the darkest, and the Divine character the brightest, by comparison and contrast. And the Christian is enabled to scan with more than mortal eye, the depth of both; not altogether unlike some angelic spirit that sees in yonder world a race of beings, "made but a little lower than the angels, and crowned with glory and honor;" with their intelligence so perverted, that of all the creation they are the most inconsistent. Through the multifarious shades of character, to trace man from the midnight scenes of abomination to his highest state as a nominal professor of the christian name; here he finds him in the spirit of war, and his hands grasping the implements of death. Here he leaves him in sorrow and seeks among the multitude for a spirit like His, on whose advent "there was with the angel a multitude of the heavenly host praising God, and sing glory to God in the highest, on earth peace, good-will towards men." If such an one is found, he is in the imitation of his blessed Lord, who gave this pathetic advice, "learn of me for I am meek and lowly of heart," with promise, "and ye shall find rest to your souls."

Again, "no man cometh to the Father but by me." From the depth of humiliation the christian ascends in spirit through the narrow "way that leadeth to life," with increasing perception of the glorious character of the Deity. It is the counsel of wisdom, that we should aspire to that state of abstraction from the world, in which we can as spectators, view the condition of man and the passing scenes of the world, as on one hand; and the character and the attributes of the Creator and sustainer of all things, on the other. Instead of floating down the current of time on popular opinion, as though blind-folded; may we search for the rock that will enable us to stand secure amidst the tempests, and prove a "quiet resting place" when time "shall be no longer." Here we may examine ourselves, and if our temporal desires are sufficiently circumscribed, we shall look with amazement at the pursuits of immortal spirits, as they are passing by us. Conscious of immortal destiny, multitudes pass forward with the progress of time, nor pay one serious thought to immortality. And other multitudes, how deficient in points of consistency and right discrimination! zealous not of the "tradition of the elders," but of the christian name; of the traditions of an apostate church, supposing themselves religious at the communion table, and on martial parades to act well the part of warriors. Such is the state of the church that is called Christian; its members, with scarcely any other mark of distinction from the professing infidels, assemble to commemorate the heavenly love of Immanuel, as evinced in Gethsemane, and on Mount Calvary, in voluntarily giving up his life for his enemies; and soon again they assemble with guns and swords, the impliments of death, and the fantastical apparatus of war, to learn the arts of man-slaughter!! By withdrawing from the spirit of war, feeling after and finding, the arising of the Divine life and love in the soul, all its horrors both to the pursuers and the vanquished, will appear in full view. Instead of submitting to be borne along by those customs of the world which increase the alienation from the divine life, it is our highest interest to cultivate with assiduous care, an approximation to it.

If those professors of the christian name who advocate war, would allow the subject a serious consideration, consulting the dictates of Truth, and regardless of the opinions of other men, they would be convinced without argument, that while in its spirit, they are disqualified for the heavenly kingdom. Is there war in heaven? Rather, Is there a man on the earth so completely shrouded in darkness, as to suppose it? It is a self-evident truth, that Love is the basis of happiness; and that there can be no perfection of happiness, where there is the smallest iota of the spirit of war. If the spirit of war now exists in our hearts, or any affinity of feeling to it, and our spirits cannot be happy until it is eradicated, until they are transformed into the heavenly image of love when must this be effected? Shall we grope our way through life, under those illusive dreams of future bliss, which result from impressions made by talking about it; not knowing that our souls are divested of all that is hostile to it, until we shall be awakened by the loud calls of the messenger of death; or until the realities of Eternity shall shew us our condition? It is verbally admitted that the salvation, or the perdition of the soul, depends on its qualification in this life. I would make a solemn appeal to those who are grown grey, while smiling at the havoc of war; or if it be only approving its system; Can you anticipate an appearance "before the judgment seat of Christ," and not feel that the spirit of war is to the soul, as a spear to the vitals of immortal life? You are now conscious of its evil nature, and that the plea of

expediency upon human calculations, will then be totally unavailing. Well, may you look back with wonder at your delusion; and though the day of life be nearly spent, and the hour of death near in its approach; peradventure heart-felt entreaties may prevail with the "God of all grace and consolation." to grant repentance unto life." Though you may not have "five brethren," you can seasonably admonish those who are to be left behind of the danger of *resisting the spirit of peace*. And to those in earlier stages in life, who are cherishing the spirit of carnal warfare, by learning the art of human slaughter; are you not conscious of protracting the war against the happiness of your own souls? Were it not, that *custom*, and those who claim to be the conductors of souls to the abodes of peace, approve it, many of you would view with a measure of indignity, as degrading to the character of Man, and especially of christian professors, the heathenish, the idolitrous, and the barbarous equipage of war. Every man possesses convincing evidence of the shortness and uncertainty of human life; and of a succeeding retribution; but many suffer themselves to be deceived by a false estimate. Poor deluded mortals, talk of "glory and honor," as the glorious reward of the brilliant achievements of war, in spreading with demoniac fury, devastation and death!! See here, to what *life*, our great apostle attaches, *glory honor, and peace*. "Or despiest thou the riches of his goodness, and forbearance, and long suffering; not knowing that the goodness of God leadeth thee to repentance? But, after thy hardness and impenitent heart, treasurest up unto thyself wrath against the day of wrath and revelation of the righteous judgment of God; who will render to every man according to his deeds; to them who, by patient continuance in well-doing, seek for glory, and honor, and immortality, Eternal Life: but unto them that are contentious, and do not obey

the truth, but obey unrighteousness, indignation and wrath, tribulation and anguish upon every soul of man that doeth evil: of the Jew first, and also of the Gentile. But glory, honor, and peace, to every man that *worketh good*; to the Jew first, and also to the Gentile."

JUSTIN.

(To be Continued.)

Extracts of a Pamphlet.

Entitled War and Christianity Contrasted &c. By Adna Heaton.

When we take a view of the inhabitants of the earth, we behold them divided into nations, distinguished from each other in language, in colour, in manners, and in religion; but sure no just reason can be drawn from this variation for disturbing the general harmony; yet, in all ages of the world, advantage has been taken by ambitious princes and statesmen of the selfishness of man in fallen state, and means have always been found to make use of the principle, to produce competitions of interest and pride, thence to produce bitterness, hatred, and enmity. An enmity that is almost continually bursting in storms of vengeance among the nations, laying their cities in ashes, and covering the fields with slaughter. Though this is a melancholy view of a disordered world, yet our great and animating consolation remaineth; that christianity offereth a remedy equal to the disorder. It teacheth us that God, of one blood, made all nations that dwell on the face of the whole earth, by which lesson we are instructed; instead of looking on any as strangers, to view the whole race of men as brethren: it teaches us that God, the great Parent of the family, confers his favours on the whole, causes his sun to rise and his rain to descend on all, whether just or unjust. It teaches us to imitate this universal benevolence by love alike universal; that in this love, we are to suffer injury without resistance, to return good for evil, blessing for cursing, and finally to forgive those who trespass against us, with an assurance that unless we do, our Father which is in heaven will not forgive us.

Let this mind be in you, which was

also in Christ Jesus; Phil. ii. 5. is an exhortation which all christians acknowledge their obligation to obey. We have heard the mind of Christ in his precepts, we have seen his example perfectly corresponding therewith. When he was reviled, he reviled not again; when he suffered, he did not even threaten, much less inflict vengeance on his enemies, but committed his cause to Him who judgeth righteously.

Can the christian appeal to his conscience, that he has the same mind in him that was in Jesus his Lord, when he prays for vengeance on his enemies, or indulges emotions of hatred or revenge towards them? Can he say he walks as his Master walked, when, under the direction of his lust, his feet run swiftly to shed blood? No contradiction can be greater, no absurdity more palpable. The mind of Christ is, that we love our enemies and do good to them that hate us, without any exception; but the nature of war is, to hate our enemies, and to do them all the mischief we can. The mind of Christ is, that we do not resist evil; but war revenges evil with wounds, captivity, and death. Thus, we may perceive the nature of man is as contrary to the religion of Jesus Christ, as hatred is to love, and revenge to forbearance. Could we, with unbiased minds, take a comprehensive view of the nature and effects of war, it would necessarily extort this confession, that it is the greatest of evils and the blackest of crimes. When we behold the nations waging war with each other, from the base motives of hatred, jealousy, covetousness, or revenge, when we see the manner in which their armies are made up; the idle entering their names to shed blood as a substitute for honest industry; the ambitious enlisting to obtain promotion; the inexperienced youth allured by present bounty, or fallacious prospects of future comfort; while others torn from every connexion in life, are forced, contrary to their wills, to join the army—how is every christian feeling wounded in the prospect! But when we extend our views further, and behold these armies marching in battle array, & with all the fury of wild beasts, falling on each other, regardless of the shrieks of the wounded or the groans of the dying, can we be-

hold in all this dreadful scene of human carnage the least vestage of that spirit which breathes peace on earth, and good will towards man? When we look towards the relatives of those who have fallen in the battle, we behold fathers mourning for the loss of their sons, women for their husbands, children for their fathers. What a contrast does this form with that undefiled religion, which makes it our duty to visit the fatherless and the widow, to sympathize with, or relieve them in their affliction? How often are large cities surrounded by land or blockaded by sea, by which all resources are cut off from the inhabitants, and not only enemies but innocent women and children are made to suffer with famine? What a gross violation, both of the dictates of humanity and of that christian precept; "If thine enemy hunger, feed him, if he thirst, give him drink." In war what spoilation of the property of the innocent, both by sea and land, in direct opposition to this rule; "whatsoever ye would that men should do unto you, do ye even so to them!"

In short, when we take a general view of the subject, instead of considering war as a single evil, we behold it as the aggregate of almost all evils; not barely opposed to one or two precepts of the Gospel, but contrary to the very spirit and great part of the moral doctrines of the christian religion. But, if war in general be so abhorrent to christianity, what shall we say of those wars that take place between one christian nation and another? If it be contrary to the principle of universal benevolence, the doctrines and example of Christ, to hurt an enemy, how much more repugnant to kill a brother? Christians are brethren in the nearest relation: to them it was said, "one is your Master even Christ, and all ye are brethren;" the nearness of these brethren to each other, is not to be lessened by their being of different nations; for all are one in Christ: and the eminent mark by which they are to be known and distinguished among men, as being his disciples, is love: "by this," says Christ, "shall all men know that ye are my disciples, if ye have love one to another."

The first christians were eminently a family of love, who did good unto all

men, even to their enemies, but especially to those who were of the household of faith. The nations of christiandom profess to be of this family of love, this household of faith; but instead of doing especial good to those of their own household, they are continually destroying one another; and instead of distinguishing themselves in the sight of Jews, Mahometans, and Pagans, by the marks of love, to be the disciples of Christ, they are eminently to be distinguished by the opposite marks of jealousy and hatred one of another. The wars of the Jewish nations under their imperfect dispensation, were mostly against heathen nations. The wars of the Christian nations under the perfect dispensation of gospel light, and in direct opposition thereto, are mostly against themselves. Thus the professed christian church, instead of loving its own body is mostly acting the unnatural part of the *suicide* who stabs the dagger into his own breast: and if we believe what Christ hath said to be true, that "every house divided against itself is brought to desolation;" we may well tremble for the fall of the christian world, unless it return to its ancient foundation, and be governed by its first principles.

The Society for the prevention of Pauperism, in the city of New York, has lately published a report on the Penitentiary system in the United States. As it is believed that this report embodies more information on the subject than any other publication that has yet appeared, the Editor has determined to give it, or the greater part of it, to his readers, in a regular series of extracts.

Ed.

The Chairman of the Committee appointed to present a General View of the PENITENTIARY SYSTEM, as it now exists in the United States, respectfully presents the following

REPORT.

THE importance, as well as the intrinsic difficulties of the subject, committed to the research and fidelity of the committee, have subjected them to formidable embarrassments

in every stage, of their investigation. A voluntary association of individuals, to ascertain the operation of municipal ordinances and regulations, and to trace out the effects and detect the errors of various systems of criminal law, throughout a country of vast extent, act under restraints not incident to boards of inquiry clothed with public authority, sustained by adequate means, and acting under auspices compatible with the moral importance of the undertaking. But until the legislature of the different states, and the constituted authorities of the country, encourage and support those regular systems of examination and observance, that are competent to correct and prevent public evils; until they learn to avoid the errors of the government and other countries, (a) in remaining inactive and indifferent, until awakened to a sense of duty by the loud cries of deep and complicated grievances; we must repose our hopes and rest our confidence, on the philanthropy, the patriotism and the zeal of individuals.

By the Penitentiary System, as treated of in this Report, the Committee would refer to the means resorted to in the different States of the Union, to prevent crimes and misdemeanors, to reform convicts, and to promote public security. These means include the adoption of Criminal Codes, the erection of prisons, and the confinement of convicts to hard labor within their precincts.

The history of nations teaches us, that the welfare of empires may be frequently endangered by sudden revolutions in popular opinion, on subjects which embrace the general and individual relations of society. Wiki

(a) Bishop Burnet, in his history of his own times, more than a century ago, appealed to the attention of the House of Commons, concerning the Poor Laws of England. He inculcated the necessity of their immediate correction. The paupers of Great-Britain now cost her not far from \$50,000,000 annually. Vide vol. iv p. 365.

and speculative doctrines will be occasionally started that strike at the abrogation of existing systems of civil polity, and silently and rapidly acquire strength and stability, until the number and zeal of their votaries become too formidable for the effectual appeals of reason and experience. A period has arrived in this country, which fully illustrates this position. Without a due regard to facts and reflection, there are many in the United States, who advocate the renunciation of the Penitentiary System, and consequently a change in our Criminal Jurisprudence that will increase the severity of its character. Abstaining from all strictures, at present; on the tendency and singularity of such an opinion, we would remark, that communities seldom retrace their steps in the trials of experience, until they reach their last extremity; and whether it is now decided to renounce or to retain this System, the determination will probably settle, for ages, the spirit of our laws, in relation to crimes and punishments. It may therefore be expedient for the Committee, in the first place, briefly to advert to the rise of the Penitentiary System in the United States. Previous, however, to doing this, they feel constrained to make a few reflections on a subject intimately connected with it—the lamentable neglect of mankind, in the different periods of human society, concerning the punishment and prevention of crimes.

Unfortunately for the deepest interest of humanity, and for the moral character of nations, Criminal Jurisprudence has not attracted the attention, and commanded that anxiety which its importance has demanded. This fact is visible in the history of every civilized people, both of ancient and modern times. Wars have been waged, and vast and bloody revolutions accomplished, for the acquisition and establishment of political rights; laws have been invented and improved, from one age to another, for the security of property and enjoyment of civil immunities; moral and relative obligations have been defined with a nicety that strongly marks the perfection of human discrimination; but that science

which cautiously and successfully graduates punishments to offences, and, in the greatest possible degree, prevents the perpetration of crimes, is still in its infancy.

In arbitrary governments, where the arm of power is the rule of law, despotism never pauses in her march over the lives and fortunes of submissive millions, to adjust a scale of punishment to suit the atrocity of guilt, or to provide for the reformation of character. We may look in vain among the populous and refined nations, that once flourished in the fairest portions of Asia, for any exceptions to this remark worthy of consideration. Ancient India, so renowned for her civilization, her wealth, her ingenuity, her arts and her sciences, and filled, as she is, with wrecks of power and splendor, was cruel in her administration of justice; and one of the earliest historians induces us to believe, that crimes were punished with that severity that destroys all proportion between the punishment and the aggression.* The laws of the most polished states of Greece, not excepting Athens, when taken as a body, were grossly defective; (†) and during the most illustrious ages of the Roman Commonwealth, inflictions for offences indicated the triumph of military ferocity and summary revenge, rather than the adoption of mild, just, and rational laws, to restrain and prevent the commission of offences. The

* "Punishment" (according to a striking personification in the Hindoo Code) "is the magistrate; punishment is the inspirer of terror; punishment is the nourisher of subjects; punishment is the defender from calamity; punishment, is the guardian of those who sleep; punishment, with a black aspect and a red eye, terrifies the guilty." Rob. Disqui. on India.

(b) The Spartans were a martial and sanguinary people, and under the semblance of a Republic, evinced a spirit of arbitrary government, and punished crimes with an unsparing vengeance. Tum vero apud multos populos et dominus in servos et parentibus in liberos mansit jus puniendi plenum, etiam ad mortem usque sic Sparta Ephoris licuit civem occidere extra judicium. Gro.

conquerors of the world were too intent on the subjugation of mankind, to settle nice and refined rules of human conduct, and to restrain the evil propensities of a populous community, by prudent, sound, and effective restraints.

While the civil law presents us with a system of rules in relation to the rights of persons and the rights of things, which deserve admiration; while private wrongs and their remedies are defined with a subtlety, and an exactness, that in many respects, may still challenge competition; that portion of it which falls under the head of Criminal Jurisprudence, presents a dark, cruel and implacable character. Punishments were disproportionate to offences, as well as relatively defective in their graduation; the accused was not confronted with the accuser; trial by jury was unknown; and the means of ascertaining the perpetration of crimes, rigorous, partial and unjust. The rack, the wheel, torture, crucifixion, and many other barbarous expedients, were common in the treatment of culprits. (c)

In looking into the Feudal laws, we look into the operations of a vast military system, where the field, and not the forum—where the sword of conquest, and not the scales of justice, is most perceptible. Single combat, the ordeal by fire and water, and the extinguishment of public offences by pecuniary compensation, distinguishing its history.

(c) The whole front of Roman Criminal Law, presents nothing but odious lines of sanguinary horrors, where every step of the Legislature can be traced in blood. The iron crown, the agonizing wheel, the bed of torture, present themselves to the abhorrent eye, on every side; their ultimate punishments, savage in their nature, and foreign to their end, which is example, and not the pain of the individual. Delaceration by wild beasts, protrusion from the Tarpean Rock, immersion, crucifixion and scourging to death, are less shocking in narration to our feelings, than the previous engines used to extort confession from the prisoner, and to load with guilt the unfortunate object of imperial resentment. Brown's Civ. and Adm. Law, p. 4, V. I.

As we turn from this offspring of fierce and barbarous ages to the Canon law, that was principally composed from the decrees of Ecclesiastical councils, the edicts and decretals of the Pope, and the writings of the Papal Fathers and moulded to the exigences of a great spiritual empire, by the subtlety and adroitness of the ecclesiastics and the commands of the chief Pontiff, we find little worthy of commendation amid the excommunications, anathemas, censures, degradations, forfeitures, and other similar resorts, which formed the main reliance for prevention of public offences. The overt sale of indulgencies to commit crimes of the darkest nature, not excepting robbery, arson and murder, throughout the papal dominions, in the 16th century, went far to produce the overthrow of that power, which, from the vatican, overawed the kings and nations of the earth, affords a striking comment on this point.

The practice of expiating crimes by a specific recompence, seems to have been a favorite remedy in many periods of society. Homer incidentally mentions in his Iliad, that in ancient Troy, even murder, the blackest of offences, was punished by fine, and this information is again repeated in his description of the shield of Achilles. Tacitus tells us that among the ancient Germans, injuries were atoned for by compensation, and homicide had its price, which, when once paid, appeased the vengeance of relations and friends. The Salic law settled various prices for different kinds of crimes; and, according to Hume, among the anglo Saxons, the forfeiture for killing a king, a bishop and alderman, a thane, a sheriff, a clergyman or a peasant, was settled by law, in the coin of the times. Not only was the aggressor compelled to pay, but the relations and parties injured, obliged to accept, of the penalty incurred. Blackstone informs us, that formerly in Ireland, in case of murder, the Brehon or Judge was authorized and accustomed to compound between the murderer and the friends of the deceased, in a manner peculiar to that country. The lex talionis or the law of retaliation, in case of corporeal injuries, has also been a prevailing feature in the criminal systems of many civilized nations, and one defor-

mity of person, when the effect of violence has been compensated by visiting the like mark and suffering on the person of another, the offender. Among the Jews, the Egyptians, and the Athenians, this rule of punishment was adopted in certain cases.

When the nations of the European continent, emerged from the barbarism of the dark ages, the civil law which had slumbered in obscurity for centuries, awoke with the restoration of the arts and sciences. It became the foundation of national law in Europe, and the municipal law of many countries, under the limitation of local customs and ordinances. Its qualified dominion is apparent, as we look into the histories of Germany, Holland, France, Italy, Portugal, Spain, and some other states. In criminal proceedings, the progress, as well as the rules and discriminations of the civil law, were in a great degree followed. Inquisition, denunciation, accusation, imprisonment, the oath of purgation, and the rack, were adopted. The writer before alluded to, (d) has forcibly remarked that there is scarcely an abuse of the criminal law, which in the last or preceding centuries drew down on its perversers the vengeance of an injured people, that was not suggested by the despotic genius of declining Rome. Had the *Corpus Juris Civilis*, while it applied the principles of moral recitude to the extended variety of human concerns, been well adapted to the prevention of crimes, and the reform of criminals, far different would have been the science of Criminal Jurisprudence among modern civilized nations, at the present day.

For many centuries after the revival of letters, Criminal Jurisprudence continued nearly stationary on the continent of Europe. The records of her criminal courts were deformed by cruel, rigorous, & impolitic sentences, and humanity was shocked & outraged, by awful and sanguinary punishments. Dungeons were multiplied and rendered the unmerited mansions of ignominy, sufferings and despair; torture and the rack were applied with little discrimination, and

no just relation was preserved between the offence and the punishment. Reasons of state and religious bigotry added stimulus to the vindictive temper of sovereigns, courts, and tribunals. But during the 18th century a new and illustrious era broke upon the world. A combination of enlightened philosophers, united by the ties of genius, zeal and humanity, lifted the curtain which had so long concealed the horrors and abuses of different existing criminal codes, and opened the eyes of nations to the deep rooted and flagrant errors of the systems, which they sustained. Their appeals to public conviction, were effectual to no inconsiderable extent, and the moderation of some punishments and the abolition of others succeeded. Germany, Sweden, Saxony, Poland, Denmark, and Russia. France (e) enlightened and polished France, with a character illustrious for valor, for learning, and the arts, was among the last to follow this mild and praise-worthy example, if we except Spain and Portugal, whose annals are stained with blood, & whose moral condition requires deep and radical changes to reform the abuses of laws and customs. (f) The at-

(e) The laws given to France by Napoleon reflect more credit on his public career than all his conquests. From the time his criminal code was adopted, crimes rapidly diminished. The following facts are taken from the report of the Minister of the Interior in 1813. In 1801 the population of France was 34 millions: that year produced 8500 criminal cases in which there were implicated 12,400 persons. In 1811 a population of 42 millions offered but 6000 criminal cases in which were implicated 8600 persons. In 1801, 8000 were sentenced; in 1811, 5,500; in 1801 there were 882 sentenced to death, in 1811 only 392. Louis 18th has had the good sense to adopt the code of Napoleon, with a few alterations.

(f) The last question concerning

(d) Brown's Civ. and Adm. Law.

tempts made in Russia and in one of the Italian states to effect the permanent abrogation of all capital punishments, proceeded from this benevolent spirit for reformation.

It is with regret that we are here compelled to advert to England, with the deepest sentiments of reprehension. While she justly boasts of a system of jurisprudence in civil transactions, that applies to all the exigencies of civilized society, that guards and secures all the rights, incident to a state of public and private security, and one that is founded on the broad basis of utility, her criminal code presents us with a melancholy spectacle of cruelty error and neglect. Not only is it inadequate to the ends which it has been designed to accomplish; but it is productive of the very evils which it would remedy. The land of Coke, of Hale, of Foster and Mansfield, whose powerful and comprehensive minds extended the boundaries of legal science, and enriched and adorned it with truths and principles that were drawn from the depths of human reason, at this late day retains a system of laws that awards death for about two hundred offences, and that draws no distinction between the most atrocious murders and the stealing of a guinea, or the cutting down a forest tree.

We cannot conclude these remarks on the subject under consideration, with more propriety than by adopting the judicious observations of the learned and energetic Commentator on the laws of England. "In proportion to the importance of criminal law, ought also to be the care & attention of the torture was brought up in England in the reign of Charles the first by the bishop of London in the case of Felton, for the murder of the duke of Buckingham. It was introduced in the time of Henry the sixth. In the case here mentioned, the 12 judges unanimously decided that it was contrary to the laws of England. Fos. C. Lew. 244.

legislature in properly forming and enforcing it. It should be founded upon principles that are permanent, uniform, and universal; and always conformable to the dictates of truth and justice, the feelings of humanity, and the indelible rights of mankind, though it sometimes (provided there be no transgression of these external boundaries) may be modified, narrowed or enlarged, according to the local or occasional necessities of the state which it is meant to govern. And yet either from a want of attention to these principles, in the first concoction of the laws, & adopting in their stead the impetuous dictates of avarice, ambition and revenge, from retaining the discordant political regulations, which successive conquerors or factions have established, in the various revolutions of government; from a lasting efficacy to sanctions that were intended to be temporary, and made (as lord Bacon expresses it) merely upon the spur of the occasion; or from, lastly, too hastily employing such means as are greatly disproportionate to their end, in order to check the progress of some very prevalent offence; from some, or from all of these causes, it hath happened that the Criminal Law is in every country of Europe, more rude & imperfect than the civil. I shall not here enter into any minute enquiries concerning the local constitutions of other nations: the inhumanity and mistaken policy of which have been sufficiently pointed out by ingenious writers of their own. "But even with us, in England where our crown law is with justice supposed to be more nearly advanced to perfection; where crimes are more accurately defined, and penalties less uncertain and arbitrary; where all our accusations are public, and our trials in the face of the world; where torture is unknown and every delinquent is tried by such of his equals, against whom he can form no exception nor even a personal dislike: even here we shall occa-

sionally find room to remark some particulars that seem to want revision and amendment." (h)

From this partial sketch concerning the Criminal Jurisprudence of other countries, we turn to the United States. We turn to our country too, with those grateful emotions that are inspired by just causes of self-gratulation. No country on the face of the globe, of the extent and population of the American nation, presents a criminal system so mild, so rational and so well proportioned to its ends as ours. It attracts admiration among the most polished states of the world, receives the eulogisms of philosophers, and philanthropists, and with our free and popular institutions, and with the sedulous attention of wise legislators, may, ere long, command the imitation of older and more powerful empires. Strong moral causes have contributed to the contrast which we display between ourselves and other nations, in this respect. Many of the first settlers of this country were men of enlarged views and vigorous minds; many had left the shores of the other continent with a spirit of free enquiry and with a repugnance to irrational and sanguinary laws of every description. They came to a land where the theatre of experiment was boundless. The relations of civil society were few and simple, and the complex abuses of long existing systems, in social order, were unknown. Some bold advances towards the adoption of a mild and temperate criminal code, were made before the Revolution; but it was that great and momentous event which divested the monuments of European polity and jurisprudence of a false veneration, that expanded the public mind to a more acute, comprehensive and enlightened view of public rights and their security. In the constitution of the United States, as well as in the several state constitutions constant regard is paid to the

preservation of life and the security of fundamental principles. The statutes of our different Legislatures, which followed the establishment of the national government, breathed a spirit of mildness and humanity, unknown to the nations of Europe. Public investigation was unshackled, and the public mind susceptible of new and deep convictions, upon subjects connected with the general interest, and the moral condition of the community. The writings of eminent advocates on the other side of the Atlantic for mild punishments, met with an ardent admiration. Many able and luminous disquisitions were written in this country, to advance the triumph of humane laws, and in some places associations of distinguished men were formed for the same purpose.

From these, and other kindred causes, arose the PENITENTIARY SYSTEM in the United States. It was the offspring of this country, and established on the broad principles of humanity. It was believed by its founders, that sanguinary punishments were not the most subservient to the ends of criminal justice, and that a system of laws that would tend to give a moral dominion over the mind and bring it to a sense of its errors and turpitude, would prove more efficacious in preventing offences, than severe corporeal inflictions: that a system of laws which should prescribe confinement, hard labour, and moral discipline and instruction, would accomplish this purpose, and send forth convicts at the termination of their confinement, as useful members of society.

Before the Committee proceed to give their views of the tendency, defects and reform of the Penitentiary System in this country, a brief sketch of its rise and progress may not be unproductive of benefit.

To William Penn, a name venerable and distinguished in the history of the new world, and one which will ever be associated with the recollection of ardent and successful efforts to improve the condition of mankind, may be traced the first steps towards that reformation in Penal jurisprudence to which we

(h) Black. Com. Vol. 4, p. 3.

have alluded. The British government appears to have been anxious to extend her Penal laws, or at least the spirit of them, to her North-American Colonies. In the Royal Charter, granted to the founder of Pennsylvania, by Charles II. it is directed that the laws of the colony, in relation to felonies, should bear a similitude to those of the mother country; and even the future Provincial Legislatures were constrained to conform to the British system in their future enactments. But William Penn was a man of firm purpose, of strong mental powers, and of an original cast of mind. He thought with freedom on every subject, and his acts comported with his conclusions. He set at defiance the arbitrary injunctions in the Royal Charter relating to the punishment of crimes. First he abolished forfeitures in cases of suicide, and the deodands which followed the perpetration of murder. He then formed an independent Criminal Code, in which capital punishment for robbery, burglary, arson, rape, forgery, and levying war against the governor, was abolished, and alone retained in cases of homicide. Imprisonment, with hard labor, and in some instances the infliction of corporeal punishment were substituted. In trials for murder, where the jury returned a verdict of guilty, the record of conviction was sent up to the Executive for supervision. This Code, worthy of one of the greatest legislators of the new world or the old, was transmitted to England and rejected by Queen Ann and her council. But the Colonial government conducted with a noble resolution, and still retained it in defiance of royal displeasure, until 1718, with the most salutary effects. Under the reign of George I. after much trouble and confusion in the Colony, the mild system of William Penn was surrendered under many aggravating circumstances, in which the hand of oppression is too visibly seen. A new Criminal Code was given to Pennsylvania, which, with subsequent additions, rendered sixteen species of crime punishable with death; also extending capital punishment to all cases of felony on second conviction, excepting larceny. No further change ensued, until the Revolution. That august event burst the fetters of colonial law. In the Constitution of Pennsylvania, framed in 1776, the Legislature is ordered "to reform the Penal laws—to make punishments less sanguinary, and, in some cases, more proportionate to the offence." In 1786, a new Criminal Code was created, and capital punishment was retained in four of the highest felonies—treason, murder, rape, and arson. But what derogated altogether from its merits, was the infliction of severe corporeal punishment, by whipping in public, and by compulsion to hard labour with the head shaved, and with other external indignities. The tendency of this system was obvious. It roused the strongest feeling of public aversion, and elicited the censures of such men as Benjamin Franklin, Benjamin Rush, and William Bradford.—These personages will be ranked, to the close of time, among the ornaments of our species: and among the benefactors of our race. Caleb Lowndes of the society of Friends, whose biography is the history of benevolence, displayed in its most simple and effective character, aided with unreserved ardour in the attempts at reformation. In 1790, a change took place in the Penal laws of that state. The State Prison at Philadelphia was erected. Here commenced the Penitentiary System in the United States, which has now been in existence about thirty years. As we shall mention, the peculiar construction of the Penitentiaries in this country, in their proper order and in a succinct manner, nothing need be said here in relation to the internal arrangement and police of the one now mentioned. We are now showing the rise, and not the defects of the system.

(To be Continued.)

In the Prospectus for the 2nd volume of the Moral Advocate, an intimation was given, that the enlargement of the work would afford an opportunity to the editor to take a rather wider range of subjects, particularly such as are involved in the general principle of *Force*, or *Violence*. It was further suggested that slavery was the principle subject of this description that would be brought

into view in the Moral Advocate on its enlarged scheme.

The following Address of the Society of Friends in England, to the Inhabitants of Europe, on the Iniquity of the Slave Trade, it is believed will be read with interest. The feelings which this address is calculated to produce, will be found to revolt against the *practice of Slavery*—and war no less than against the Slave trade itself. Ed.

AN ADDRESS, &c.

MANY years have now elapsed since the attention of the Religious Society of Friends, commonly called Quakers, was first turned to the subject of the Slave Trade. Such was the conviction of its iniquity, that it was felt to be a duty to represent to all in the same religious profession, the sufferings to which the natives of Africa were subjected, by being forcibly torn from their native soil and condemned to cruel bondage on a foreign shore.

The society proceeded further: under a sense of the enormity of the crime, a regulation was made upwards of sixty years ago, which has continued in force unto the present time, that those who persisted in "the unrighteous traffic in Negroes*", after pains had been taken to convince them of their error, should no longer be considered as its members. And as such as are in religious connexion with us, have been uniformly warned not to partake of the gain of oppression, not to defile themselves with any profits arising from this species of injustice, we trust that we shall obtain full credit when we allege, that we have no commercial or political end whatever to answer, by thus advocating the cause of the oppressed. We plead on the simple, but firm basis of Christian principle.

In common with many virtuous and benevolent characters of our own nation, we felt it to be a Christian duty,

*Yearly Meeting, 1761.

to aid in diffusing among our fellow-countrymen information on the horrors of the trade; and in soliciting our government to pass a law, for the termination of a commerce, at once barbarous and iniquitous. And we participated in feelings of joy on beholding that, notwithstanding there were great and numerous obstacles in the outset, and in the progress, of this work of humanity, the sense of the great bulk of the inhabitants of these islands was so clearly seen and yielded to by our Rulers, that this stain on our national character was ultimately effaced, in the year 1807, by an act of the British Legislature;—many of the members of which not only acknowledged the injustice of the trade, but nobly and successfully united their unwearied efforts to hasten its suppression.

We have rejoiced to hear that the respective Governments of those countries, whose subjects are still implicated in the traffic, have proceeded so far as they have hitherto done towards its abolition; but we have learned with deep regret and sorrow, that it is still pursued to a great and truly lamentable extent, and that under circumstances of aggravated cruelty, by the subjects of those very powers. We hear that numerous vessels are still hovering along the shores of Africa, to procure cargoes of human beings, and transport them to distant lands, whence they are designed never to return. In fact we hear, and that from undoubted authority, that the trade which the Congress at Vienna in 1814 pronounced to be "the desolation of Africa, the degradation of Europe, and the afflicting scourge of humanity," has been carried on with increased eagerness in the course of last year.

It is under the influence of Christian love and good will, that we are now engaged to express our interest on behalf of this injured people. In thus introducing ourselves to the notice of our Continental neighbors, we

feel that we need not offer any apology, considering them as our brethren, as the children of one universal Parent, as fellow-professors of a belief in one and the same merciful Saviour. The same feelings which lead us to consider the natives of France, of Spain, of Holland, of Portugal, and of the other nations of Europe, as our brethren, induce us to extend this endearing appellation to the inhabitants of Africa. Our heavenly Father has made of one blood all nations of men that dwell upon the face of the earth; and we are all the objects of that great redemption, which comes by our Lord and Saviour Jesus Christ. And although the kindreds of the earth are divided into distinct communities and nations, we are all bound one unto another by the ties of love, of brotherly kindness; and compassion. But the nations of Europe are united by an additional bond. To them has been granted a blessing, which has not hitherto been enjoyed by the greater part of the natives of Africa: this blessing, this invaluable treasure is the Bible, in which is contained the record of the Gospel of Christ.

Permit us then, as fellow-professors of the Christian name, to remind you of the complicated iniquity of the Slave Trade. Possessed of a superior force, which he has acquired by a greater knowledge of the dreadful arts of naval and military warfare, the Slave trader visits the coasts of unoffending Africa. He employs his agents to tear her inhabitants from their country, their families, and their friends; to burn their villages, and ravage their fields; to spread terror and desolation through their peaceful dwellings. He fomented wars between neighboring chieftains, in order to supply himself with their subjects, the victims of his avarice. Having thus either stolen or bought his fellow-men, who are equally with himself entitled to their liberty, and of which he possesses no right whatever to deprive them, he hurries them to the vessel that may be waiting in some adjoining creek, to receive the objects of his cruelty; or he chains them with iron fetters, or loads them with heavy yokes, and drives them like the beasts of the field to the shores. There new distresses await them: they are violently conveyed on board the ships stationed to receive them, stowed beside each other like bales of goods, and conveyed across the Atlantic to the place of their destination. The horrors of this passage cannot be adequately described, even by those who have been witnesses of them. Faint, then, must be the idea we can form of the situation of upwards of three hundred human beings, in a comparatively small vessel, each limited to so narrow a space, that it often happens they cannot lie on their backs. Here they are subjected to miserable reflections,—for the power of reflection in common with us they undoubtedly possess,—on the past, the present and the future. Their shrieks, and cries, and groans, ought to be sufficient to excite pity in the hardest heart. Arbitrary, cruel power is often exercised to prevent those attempts at insurrection, to which their situation prompts them. And such is their state of desperation, that they are often ready to have recourse to suicide. The noxious and pestilential effluvia, that arise from their close confinement between decks, (which are often not more than three feet apart,) or from the illness of their companions, produce loss of appetite, disease, and in many instances suffocation, and other distressing forms of death. And here let us be reminded, that these cruelties are practised in violation of the laws of many of the nations of Europe; and that the Slave dealers in their attempts to elude the operations of the law, have recourse to fresh acts of oppression to accomplish their wicked designs.

When released from their horrible prison, the surviving Slaves are exposed to sale like cattle, and con-

ed to pass their days in the loss of liberty, far separated from their nearest earthly ties, and exposed to such acts of domineering violence, as a capricious master or his dependents may be disposed to exercise. Such is the cruelty practised upon thousands and tens of thousands of innocent sufferers, not by men who might attempt to palliate their conduct on the plea of retaliating injuries; but by those who, when they themselves are enjoying the blessing of liberty, when the comforts of social life are within their reach, leave their native land for the sake of sordid gain, and spread desolation, distress, and misery, amongst a people who have never injured them. May the nations of Europe consider in time the awful consequences that await such accursed guilt!

The arguments of the Christian, like the religion from which they are derived, are plain and simple, but they are in themselves invincible. The Gospel of our Lord Jesus Christ is a system of peace, of love, of mercy, and of good-will. The Slave Trade is a system of fraud and rapine, of violence and cruelty. The Author of our Salvation, when he took upon him our nature, set us a perfect example of piety and virtue. He went about doing good to the bodies and souls of men. He taught his disciples that the evil dispositions and passions of man are not to be indulged, but that they are to be restrained by the power of his Spirit acting upon the soul. His parables teach us the happy effects of a religious life. His miraculous cures bespeak a tender compassion for the sufferings and afflictions of man. His discourses inculcate disinterested, genuine humanity. The man who traffics in the lives and liberties of his fellow-beings, goes forth to gratify the malevolent passions of selfishness and avarice: he does violence to all the tender feelings of humanity, and spreads around him distress and terror. Our blessed Redeemer has

taught us pure, impartial justice, in this plain but most important language, "All things whatsoever ye would that men should do to you, do ye even so to them." The Slave trader, in open violation of this injunction, acts towards others in a way which he would use every means in his power to resist, if it were practised upon him. He is indeed guilty of the greatest injustice: he deprives his fellow-men of their liberty, that gift of heaven which is estimated as the greatest of civil blessings (and which is the natural, and, (whilst we are not disturbing the peace and tranquillity of our neighbors,) the unalienable right of the whole human race. And here we would observe that as the practice itself is clearly unjust, it cannot be warranted by any commercial considerations. That which is morally wrong cannot be politically right. And our beneficent Creator has wisely ordered, that our duty and our interest should be intimately combined: and it is contrary to his gracious purpose, that gain and advantage should be sought by one part of his rational creation from the distress and sufferings of another.

* Matt. vii. 12.

To be continued.

From the Ontario Repository.

The following rigid * * * regulation has been adopted at the state prison at Auburn, N. Y. "The convicts shall receive no letters or intelligence whatever from or concerning their friends, nor any information on any subject out of the prison, nor be permitted to write letters themselves; that no relation or friend shall be allowed to speak to a convict, except in some extraordinary case, where the condition of his property or family imperiously requires it; and then only in the presence of the agent or the deputy keeper; but that any information concerning the convicts will be furnished to their friends on personal application, or by letter, post paid, directed to the agent."

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